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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,658	06/23/2003	Ryou Kanno	239266US3	6150

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

HOFFMANN, JOHN M

ART UNIT	PAPER NUMBER
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1791

NOTIFICATION DATE	DELIVERY MODE
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10/23/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/600,658

Applicant(s)

KANNO ET AL.

Examiner

John Hoffmann

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1,4-6,11,12 and 25-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-6,11,12 and 25-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-6 and 11-12 and 25-33 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Letemps 5226942.

See the prior Office action for the manner in which Letemps is applied. The only new limitation to claim 1 that is newly presented is the “wherein” limitation. This limitation does not define over Letemps, because it is clear that there is a roller that moves as claimed. The claim is comprising in nature and is open to having other rollers in addition to the plurality. For example, the plurality can be exactly two rollers: one roller 29 that pivots with 17, and another roller 23 that does not pivot. The claim reads on *any* plurality – even an arbitrary plurality. The specification does not limit what must be in the plurality. The claim is comprising in nature and are open to having other rollers that are not part of the plurality.

In addition to the 1/10th mm movement created by pivoting, Letemps also reasonably suggests axial translations: see col. 3, lines 51-52; col. 6, line 50. Col. 7,

lines 48-50 indicate that translational rotation is not necessary – this implies it is permitted, although not necessary.

New claims 25-27 are clearly met.

Claim 28 is clearly met, except for the a plurality of actuators and the limitations regarding movement. It is clear that there is plurality of actuators: for example the actuator that causes the frame to pivot and the actuator which causes the glass sheet to move along the conveyor via roller rolling action. The “moving at least two of the plurality of rollers...” is clearly met by the pivoting action. As to “wherein each of the at least two of the plurality of rollers is moved by a different one of the plurality of actuators”. It is noted that there is no indication as to what this actuator is different from – nevertheless each of the Letemp actuators is different from one another – at least in its location. If this limitation is suppose to mean that one actuator causes one roller to move, and a “different” actuator causes another roller to move: this is met because one actuator causes the translational motion of one roller, and the other actuator causes rotational motion in another roller. There is nothing which prohibits each of the actuators from moving both of the rollers. It is noted that there is no requirement in the claim that the “is moved” limitation of the last two lines is the same movement of the moving step.

Claim 30: it is clear that one roller would start moving (rolling) before the other because the glass rolls on the rollers sequentially. Thus it is deemed the movements are independent- because they start and end at different times.

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Claim 31: it is clear that some of the rotational movements would be simultaneous.

Claim Rejections - 35 USC § 103

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.

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3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 4-6 and 11-12 and 25-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Letemps 5226942.

See above and the prior Office action. This rejection is made in the event that Letemps does not anticipate the wherein limitation. Letemps discloses it is known in the art to move rollers. It would have been obvious to move at least one roller in the claimed direction, depending upon what sort of adjustment is needed, and where the glass is intended to go.

From MPEP 2144.04

D. Making Adjustable

In re Stevens , 212 F.2d 197, 101 USPQ 284 (CCPA 1954) (Claims were directed to a handle for a fishing rod wherein the handle has a longitudinally adjustable finger hook, and the hand grip of the handle connects with the body portion by means of a universal joint. The court held that adjustability, where needed, is not a patentable advance, and because there was an art-recognized need for adjustment in a fishing rod, the substitution of a universal joint for the single pivot of the prior art would have been obvious.)

Letemp teaches pivoting movement – of a roller. It is not invention to move something.

Also: As indicated in the prior Office action, there are only two times to recenter the rollers – it would have been obvious to try both – since it is unclear which would be better. Additionally: it would have been obvious to reorient when the sheet is still on, so as to permit the sheets have substantially the same orientation for the rest of the processing.

In addition to the way claim 28 is treated above, the following also applies: it would have been obvious to add additional actuators to the Letemps frame to be able to move the frame to any desired location with no new or unexpected results.

Response to Arguments

Applicant's arguments filed 9/04/2007 have been fully considered but they are not persuasive.

It is argued that Letemps fails to disclose moving at least one roller independently with respect to each other roller of the plurality. Examiner disagrees, Letemp clearly discloses moving a roller while another roller is not moving, thus the moving roller is moved independently of the non-moving roller.

It is also argued that all of the rollers on Letemps portion move together as a group, not independently. This is largely irrelevant because the claims are comprising in nature and thus are open to having additional rollers that move with one of the rollers of the plurality. The claim does not require that the plurality include all the additional rollers in the frame 17. In other words, it does not matter that Letemp has a plurality which does not read on the claim - Letemp has at least one plurality that reads on the limitation - for example one roller that is on 17 and one roller that is not on 17.

Also it is urged that movement of the rollers in the arc cannot be reasonably understood as moving the rollers in a direction substantially parallel to the rolling axis.

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This is not persuasive because there is no indication as to why this would be unreasonable, or as to why the Office's explanation as to why it is unreasonable.

The PTO gives a disputed claim term its broadest reasonable interpretation during patent prosecution. Hyatt, 211 F.3d at 1372. The "broadest reasonable interpretation" rule recognizes that "before a patent is granted the claims are readily amended as part of the examination process." Burlington Indus. v. Quigg, 822 F.2d 1581, 1583 (Fed. Cir. 1987). Thus, a patent applicant has the opportunity and responsibility to remove any ambiguity in claim term meaning by amending the application. In re Prater, 415 F.2d 1393, 1404-05 (CCPA 1969). Additionally, the broadest reasonable interpretation rule "serves the public interest by reducing the possibility that claims, finally allowed, will be given broader scope than is justified." In re Am. Acad. of Sci. Tech. Ctr., 367 F.3d 1359, 1364 (Fed. Cir. 2004) (quoting In re Yamamoto, 740 F.2d 1569, 1571-72 (Fed. Cir. 1984)).

The Office has presented a prima facie showing as to the broadest reasonable interpretation of the claim. The Office is not at a position to keep guessing at the broadest reasonable interpretation, to the satisfaction of applicant. Having made a prima facie finding, the opportunity and responsibility to remove any ambiguity in the claim rests with applicant.

Regarding claim 6 it is argued that Letemps moves the entire curving machine prior to the arrival of the glass sheet, and none of the rollers move in the parallel direction when they are in contact with a sheet in conveyance. As pointed out in the rejection, one would reasonably infer that the apparatus is recentered during the conveyance.

It is also argued that the Office's arguments are purely speculative, because Letemp fails to describe or suggest the recentering between the reception of sheets. If the office's position were based on speculation, then applicant should explain at least one scenario consistent with the Letemps disclosure and that does not comport to the

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purported speculation. Consistent with basic Aristotelian logic, the Office's finding has covered all possibilities.

IT is further agued that the recentering would not be performed to position the glass sheet so as to conform the glass sheet to reference posture. The only rationale given to support this position is that Letemp disclose that there is no reason to reorient secondary cooling conveyor 20. Examiner fails to see the connection – the rejection was based on reorientation in 17, not in 20.

It is argued that "axial displacement" should not be limited to the meaning set forth in the Office action. The Office did not intend to limit or even indicate a specific meaning for "axial displacement" – rather the Office was setting forth how the broadest reasonable interpretation of 'axial displacement' does not serve to define over Letemps.

It is also argued that the Office impermissibly disregards the plain meaning of "axial displacement" – however, applicant has not indicated why the Office's interpretation was impermissible. Examiner does think it is permissible – in fact, it is required:

Examiner first interprets the claims by giving the terms thereof the broadest reasonable interpretation in their ordinary usage in context as they would be understood by one of ordinary skill in the art in light of the written description in the specification, including the drawings, unless another meaning is intended by appellants as established in the written description of the specification, and without reading into the claims any limitation or particular embodiment disclosed in the specification. See, e.g., *In re Am. Acad. Of Sci. Tech. Ctr.*, 267 F.3d 1359, 1364, 70 USPQ2d 1 827, 1830 (Fed. Cir. 2004); *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997); *In re Zletz*, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989).

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Applicant has clearly intended a broader scope for "axial displacement" – as indicated in the specification. Examiner cannot ignore applicant's intention of the broader scope.

The PTO gives a disputed claim term its broadest reasonable interpretation during patent prosecution. Hyatt, 211 F.3d at 1372. The "broadest reasonable interpretation" rule recognizes that "before a patent is granted the claims are readily amended as part of the examination process." Burlington Indus. v. Quigg, 822 F.2d 1581, 1583 (Fed. Cir. 1987). Thus, a patent applicant has the opportunity and responsibility to remove any ambiguity in claim term meaning by amending the application. In re Prater, 415 F.2d 1393, 1404-05 (CCPA 1969). Additionally, the broadest reasonable interpretation rule "serves the public interest by reducing the possibility that claims, finally allowed, will be given broader scope than is justified." In re Am. Acad. of Sci. Tech. Ctr., 367 F.3d 1359, 1364 (Fed. Cir. 2004) (quoting In re Yamamoto, 740 F.2d 1569, 1571-72 (Fed. Cir. 1984)).

Also, for claim 4 applicant argues that examiner picks and chooses without any regard for the context of the teachings – apparently just because Letemps discloses two different embodiments. Applicant fails to out how the context of the teachings would result in the rejection being improper. It seems that applicant's position is that one can never combine features from two different embodiments of a reference. Examiner does not agree – especially in this context – where the difference is movement of an apparatus. Movement of structure – as broadly claimed – is generally not a patentable invention.

Moreover, the Wesslau case law that applicant refers to is based on section 103. It appears to have no bearing on the rejection based on section 102.

Regarding claim 28 it is argued that Letemps moves an entire group of rollers. The claim is comprising in nature and thus it is open to having anything move including an entire group of rollers. The claim merely requires movement of two rollers and two actuators. Clearly one could not avoid infringement of applicant's invention by moving an additional roller.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

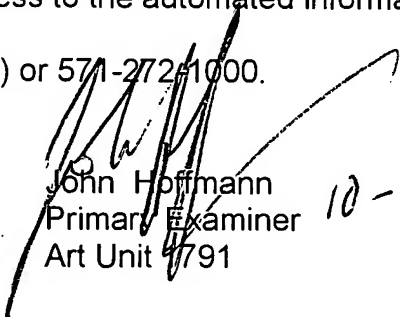
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Hoffmann whose telephone number is (571) 272 1191. The examiner can normally be reached on Monday through Friday, 7:00- 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


John Hoffmann
Primary Examiner
Art Unit 1791

10-15-07

jmh